

### § 1631.33

her designee. If possible, the Executive Director or his or her designee shall be notified before the employee or former employee concerned replies to or appears before the court or other authority.

(b) If response to the demand is required before instructions from the Executive Director or his or her designee are received, an attorney designated for that purpose by the Board shall appear with the employee or former employee upon whom the demand has been made and shall furnish the court or other authority with a copy of the regulations contained in this part and inform the court or other authority that the demand has been or is being, as the case may be, referred for prompt consideration by the Executive Director or his or her designee. The court or other authority shall be requested respectfully to stay the demand pending receipt of the requested instructions from the Executive Director.

### § 1631.33 Procedure in the event of an adverse ruling.

If the court or other authority declines to stay the effect of the demand in response to a request made in accordance with §1631.32(b) pending receipt of instructions from the Executive Director, or his or her designee, or if the court or other authority rules that the demand must be complied with irrespective of the instructions from the Executive Director not to produce the material or disclose the information sought, the employee or former employee upon whom the demand has been made shall respectfully decline to comply with the demand. [*United States ex. rel. Touhy v. Ragen*, 340 U.S. 462 (1951)].

### § 1631.34 Certification and authentication of records.

(a) Upon request, the records custodian or other qualified individual shall authenticate copies of books, records, papers, writings, and documents by attaching a written declaration that complies with current Federal Rules of Evidence. No seal or notarization shall be required. Copies of any books, records, papers, or other documents in the Federal Retirement Thrift Investment Board shall be admitted in evi-

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dence equally with the originals thereof when authenticated in this manner.

(b) Fees for copying and certification are set forth in 5 CFR 1630.16.

[72 FR 53414, Sept. 19, 2007]

## Subpart C—Administrative Subpoenas

AUTHORITY: 5 U.S.C. 8480.

SOURCE: 75 FR 8796, Feb. 26, 2010, unless otherwise noted.

### § 1631.40 Subpoena authority.

The Executive Director or General Counsel may issue subpoenas pursuant to 5 U.S.C. 8480. The General Counsel may delegate this authority to a Deputy General Counsel, Associate General Counsel, or Assistant General Counsel.

### § 1631.41 Production of records.

A subpoena may require the production of designated books, documents, records, electronically stored information, or tangible materials in the possession or control of the subpoenaed party when the individual signing the subpoena has determined that production is necessary to carry out any of the Agency's functions.

### § 1631.42 Service.

(a) *Return of service.* Each subpoena shall be accompanied by a Return of Service certificate stating the date and manner of service and the names of the persons served.

(b) *Methods of service.* Subpoenas shall be served by one of the following methods:

(1) Certified or registered mail, return receipt requested to the principal place of business or the last known residential address of the subpoenaed party.

(2) Fax or electronic transmission to the subpoenaed party or the subpoenaed party's counsel, provided the subpoenaed party gives prior approval.

(3) Personal delivery at the principal place of business or residence of the subpoenaed party during normal business hours.